

CHAPTER NO. 412

HOUSE BILL NO. 1375

By Representatives Kent, Boyer, Scroggs

Substituted for: Senate Bill No. 1652

By Senators Clabough, Atchley

AN ACT to amend Tennessee Code Annotated, Title 26, Chapter 2, Part 2, relative to garnishment of state officers and employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 26-2-221 is amended by deleting the section in its entirety and by substituting instead the following:

Garnishment of salaries, wages or other compensation due from the state, or from any county or municipality, to any officer or employee thereof, is permissible. Garnishment of compensation due from the state to contractors or vendors of the state is permissible. No such officer, employee, contractor, or vendor may validly claim any privilege or immunity in that regard. Such officer, employee, contractor, or vendor shall be entitled to an exemption of the amount of wages, salary, or compensation so due as is exempt from levy or garnishment in favor of officers, employees, contractors, or vendors of private corporations in like circumstances. However, notwithstanding any other provision of law to the contrary, nothing set forth herein shall be construed to apply to or to allow garnishments of state compensation to contractors or vendors of the state where the state determines that payment of such garnishment would result in an interruption of essential state services.

SECTION 2. Tennessee Code Annotated, Section 26-2-222 is amended by deleting the section in its entirety and by substituting instead the following:

(a) In case of garnishment of officers, employees, contractors, or vendors of the state, garnishment notice may issue from any court or any court of record and shall be served upon the commissioner of that department in which such officer, employee, contractor, or vendor shall be engaged, or with which he or she is connected. The date of service shall be the date upon which service upon the commissioner has been accomplished. If such garnishment is not served as set forth above, such service shall be considered ineffective, and the state shall not be liable for any sums due thereunder. Such commissioner, or his or her designee, is directed to make answer to such garnishment notice or summons, stating the compensation, if any, due any state officer, employee, contractor, or vendor so garnisheed. Such commissioner is directed to withhold any amounts then due the state officer, employee, contractor, or vendor up to and including the amount of the judgment and costs on which the garnishment proceedings were predicated, until the garnishment is released by the issuing court or such funds are paid into that court, as provided by law, and is directed to pay to such officer, employee, contractor, or vendor any amount or sum which may be due such officer, employee, contractor, or vendor above the amount of such judgment and costs, or if applicable, above the amount of each periodic payment made from successive pay periods.

(b) In addition to the amount of the disposable earnings subject to garnishment, the State Department of Finance and Administration shall be entitled to retain an administrative fee of five (\$5.00) dollars due from the judgment debtor at the time of each payment made to the court as a result of the garnishment. The five (\$5.00) dollar fee will be retained from the balance of the judgment debtor's earnings remaining after deducting the payment made to the garnishing court. If the maximum garnishable amount has been reached prior to retaining the five (\$5.00) dollar fee, then such amount due shall remain owing to the state until paid.

(c) The time at which the garnishment lien attaches to the amounts due the state officer, employee, contractor, or vendor shall be seven (7) business days from the date of service of the garnishment.

(d) If the commissioner in the department in which the officer, employee, contractor, or vendor works, or the commissioner's duly authorized agent or attorney, fails to appear and answer such garnishment, it shall be presumed that the state is indebted to the officer, employee, contractor, or vendor to the full amount of the judgment creditor's demand, and thereupon a conditional judgment may be entered against the state for the judgment to the extent of the garnishable funds paid out by the state which were due the debtor during the period the garnishment was effective.

(e) After the entry of such conditional judgment a scire facias shall issue to the commissioner of the department in which the garnisheed officer, employee, contractor, or vendor works, returnable to the next term of the court or to a day and place fixed by the court, to show cause why final judgment should not be entered against the state.

(f) Upon the return of such scire facias, fully served upon the commissioner of the department in which the garnisheed officer, employee, contractor, or vendor works, and upon the failure of the state to appear and show cause, the conditional judgment against the state shall be made final. In such event, the commissioner is directed to pay any such judgment and deduct the amount thereof from wages, salaries, or other compensation owing to such officer, employee, contractor, or vendor garnisheed under this part. Notwithstanding the foregoing, in any case in which judgment is obtained under the provisions of this section, if there is no compensation due such officer, employee, contractor, or vendor so garnisheed during the period such garnishment was effective, such judgment against the state shall be void and unenforceable.

(g) Any process required to be served under this section may be served, pursuant to the Rules of Civil Procedure, by a private process server.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall be effective upon becoming a law, the public welfare requiring it.

PASSED: June 14, 2001


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 20th day of June 2001


DON SUNDQUIST, GOVERNOR